

BEFORE THE  
UNITED STATES DEPARTMENT OF JUSTICE

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In Re: :  
CIVIL INVESTIGATIVE DEMAND : Volume 1  
NO. 21840 :  
----- X

ORIGINAL

Kansas City, MO

July 16, 2002

Deposition of GARY HANMAN, a witness herein, called  
for examination by counsel for the United States  
Department of Justice in the above-entitled matter,  
pursuant to notice, taken at the Embassy Suites  
Hotel, 7640 N.W. Tiffany Springs Parkway, Kansas  
City, Missouri, scheduled for 8:30 a.m., before Mary  
K. Martin, a Certified Court Reporter and Notary  
Public in and for the State of Missouri.

A P P E A R A N C E S

On behalf of the Department of Justice:

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GARY HANMAN,

of lawful age, after having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

(Whereupon, Exhibit No. 1 was marked for identification by the reporter.)

DIRECT EXAMINATION

BY MR. DONALDSON:

Q. Good morning.

A. Good morning.

Q. My name is J.D. Donaldson. I'm an attorney with the Antitrust Division of the U.S. Department of Justice. With me is Jody Boudreault, who is also an attorney. For purposes of this deposition, we are investigators on behalf of the U.S. Department of Justice.

Would you please state and spell your name for the record.

A. Yeah. My name is Gary Hanman, and that's spelled G-a-r-y H-a-n-m-a-n.

Q. And are you represented by counsel today?

A. Yes, I am.

Q. And are Messrs. Miller and Geisler your attorneys?

1 A. Yes.

2 MR. DONALDSON: Aside from Mr.  
3 Hanman, Mr. Miller, Mr. Geisler and Ms.  
4 Boudreault, myself, and the reporter, let the  
5 record reflect that all others have been  
6 excluded from the room at this time.

7 Q. (BY MR. DONALDSON) Please take a moment and  
8 take a look at what has been marked as Exhibit  
9 No. 1. It is a double-sided document.

10 Okay, have you reviewed the document?

11 A. I've looked at it, yes.

12 Q. This CID is addressed to the person or persons  
13 most knowledgeable about DFA's partial  
14 acquisition of Southern Belle Dairy, including  
15 the venture's formation, operation, customers,  
16 competition, any efficiencies expected. Are  
17 you that person?

18 A. Yes, one of them.

19 Q. Who else?

20 A. We have a -- we've had a lot of people in DFA  
21 working on details. That would be a Joel  
22 Clark, David Meyer, David Geisler. Some  
23 outside consultants from Deloitte & Touche. Of  
24 course, Bob Allen. Jerry Bos. That's the ones  
25 I can think of off the top of my head.

1 Q. Are any of those individuals more knowledgeable  
2 about these subjects than you are?

3 A. Probably not in total. Maybe on some detail of  
4 it but not in total.

5 Q. The CID is also addressed to the person most  
6 knowledgeable about DFA's prior dealings with  
7 Robert Allen. Are you that person?

8 A. I would be one of them.

9 Q. And the others would be?

10 A. The same people mentioned before that were  
11 involved in the prior joint ventures with Bob  
12 Allen.

13 Q. And are they more knowledgeable about it than  
14 you?

15 A. Not in total. Probably in some details they  
16 might be but not in total.

17 Q. Lastly, the CID is addressed to the person most  
18 knowledgeable about other similar DFA fluid  
19 milk processing ventures. Are you that person?

20 A. Probably.

21 Q. Do you understand that this Civil Investigative  
22 Demand marked as Exhibit 1 compels your full  
23 and truthful testimony here today?

24 A. Yes.

25 Q. Sir, under the oath you have taken today, you

1 have the obligation to answer my questions  
2 fully and truthfully. Is there any reason why  
3 you might not be able to answer my questions  
4 fully and truthfully?

5 A. Not that I -- no, I know of none.

6 Q. You have the right to answer a question "I  
7 don't recall" but if you have any recollection  
8 about the information that I'm asking about, if  
9 you answer "I don't recall," that could be a  
10 response that might subject you to prosecution.  
11 Do you understand that?

12 A. If I don't recall, I don't recall.

13 Q. If you don't recall. But if you have a  
14 recollection of what I'm talking about and you  
15 answer "I don't recall," that's a response that  
16 could potentially subject you to prosecution;  
17 do you understand that?

18 A. I understand that you want me to testify  
19 truthfully, but if you ask me for some specific  
20 details about some subject, I may not be able  
21 to give you all the details about that subject.

22 Q. Okay. But if you have a general recollection,  
23 you would testify to that recollection; is that  
24 correct?

25 A. That's correct.



1 Q. Okay. Under Section 102, Part 7A of the  
2 Antitrust Civil Process Act, you are required  
3 to answer the questions I asked unless you can  
4 assert a privilege or a constitutional right.

5 Do you understand that you are  
6 appearing here today as a witness in the  
7 Department of Justice's investigation into the  
8 acquisition of the Southern Belle Dairy by  
9 Dairy Farmers of America and the Allen Family  
10 Limited Partnership?

11 A. Yes.

12 Q. When I use the term "Dairy Farmers of America"  
13 or "DFA" or the term "you" during the  
14 deposition, it includes DFA and its  
15 subsidiaries, joint ventures or affiliates,  
16 including Mid-Am Capital and any predecessor  
17 entities such as Mid-America Dairymen.

18 Please acknowledge if you understand  
19 that use of the term "DFA."

20 A. Okay, I understand the definition of what you  
21 just gave me, yeah.

22 Q. Okay. And when I use the term "Allen" or  
23 "AFLP," I'm referring to the Allen Family  
24 Limited Partnership or AFLP and any of its  
25 subsidiaries, joint ventures or affiliates,

1 and any predecessor entities if there are any.

2 Do you understand that use of the  
3 term "Allen" or "AFLP"?

4 A. Yes, I do.

5 Q. Have you had your deposition taken anytime  
6 since the Department's deposition of you in  
7 connection with the merger of Suiza Dean last  
8 year?

9 A. No.

10 Q. Let me explain briefly how the deposition will  
11 proceed. I'll ask you a series of questions  
12 which you'll answer. Everything that's spoken  
13 in the room is taken down by the reporter. If  
14 I ask you a question that you can't hear or  
15 don't understand, please let me know and I will  
16 repeat it or rephrase it. If you answer a  
17 question, the assumption will be that you  
18 understood it. Please allow me to finish my  
19 questions before answering so the reporter can  
20 take down everything that's said. Please  
21 answer questions verbally as opposed to  
22 gesturing or nodding as that allows the  
23 reporter to take down what's been said. If you  
24 would like to take a break, please let me know,  
25 but I would ask that you answer any question

1           that I have asked before taking a break.

2                   Do you have any questions about these  
3           instructions?

4   A.     I do not.

5   Q.     Did you discuss your deposition in this matter  
6           with anyone other than counsel?

7   A.     Yes.

8   Q.     Who?

9   A.     My wife.

10   Q.    Anyone else?

11   A.    My secretary. The Chairman of the Board,  
12          Herman Brubaker, knows I'm being deposed today.

13   Q.    What did you discuss with your secretary?

14   A.    That I was being deposed.

15   Q.    Did you talk about the substance of your  
16          deposition or the topic of the deposition?

17   A.    I don't believe we did.

18   Q.    Did you discuss the subject of the deposition  
19          with Herman Brubaker?

20   A.    Yes, in concept.

21   Q.    When did you talk to him?

22   A.    I think yesterday.

23   Q.    How long did the conversation last?

24   A.    The whole conversation?

25   Q.    Yes.

1 A. Oh, we talked a lot about a lot of other things  
2 besides the deposition, you understand?

3 Q. Okay. How long did the discussion with respect  
4 to the deposition take place?

5 A. Five minutes.

6 Q. And what did you discuss with him?

7 A. The fact I was being deposed by U.S. Department  
8 of Justice with respect to the Southern Belle  
9 partial acquisition.

10 Q. Okay. Did you discuss your deposition with  
11 anyone else other than counsel?

12 A. I don't believe so other than the ones I've  
13 mentioned.

14 Q. Okay. Have you seen or heard anything about  
15 Robert Allen's deposition?

16 A. Have I seen it?

17 Q. Seen or heard anything about Robert Allen's  
18 deposition?

19 A. I've heard something about it.

20 Q. Other than through counsel?

21 A. No.

22 Q. Did you review any documents to prepare for  
23 this deposition other than with counsel?

24 A. No.

25 Q. Did you take any documents with you to this

1 deposition?

2 A. No.

3 Q. What is your title at DFA?

4 A. CEO and President.

5 Q. And how long have you been CEO and President?

6 A. From January 1 of '98, which was the start date  
7 of DFA.

8 Q. Until today?

9 A. Yes, until today.

10 Q. Briefly describe your responsibilities as CEO  
11 and Chairman.

12 A. I'm not Chairman.

13 Q. Okay. President.

14 A. I'm CEO and President.

15 I have the general administrative  
16 duties of running the business, the business of  
17 DFA. That would be the directly or indirectly  
18 hiring and firing of all people involved in the  
19 company. It would be running the business in  
20 the normal sense of directing the business  
21 affairs. It would include the normal functions  
22 you would associate with the President, the  
23 Chief Administrative Officer of a company.

24 Q. How often does DFA do its strategic planning?

25 A. Once a year.

1 Q. Okay. And even though you had a minority  
2 interest in the Suiza dairy group, did you not  
3 have some kind of say over what Suiza could and  
4 couldn't do with its --  
5 A. No.  
6 Q. -- dairy group?  
7 A. No.  
8 Q. Did you or to your knowledge anyone at DFA  
9 receive a copy of the Broughten consent decree?  
10 A. Oh, I'm sure we did.  
11 Q. Okay. Have you seen it?  
12 A. No, I don't believe I've ever read it.  
13 Q. To your knowledge, have others at DFA read it?  
14 A. I would hope Geisler has read it.  
15 Q. Anyone else?  
16 A. Not that I know about. That's who I would rely  
17 on to tell me what's in it.  
18 Q. To your knowledge, what's your understanding of  
19 why that decree was entered into?  
20 A. One was Suiza a wanted to buy Broughten; two,  
21 in order to get that acquisition approved, they  
22 had to dispose of Somerset.  
23 Q. Why?  
24 A. Because of the overlap that it had with PET,  
25 the PET plants and Land-O-Sun -- I mean

1 Flav-O-Rich.

2 Q. Which PET plants?

3 A. Probably Land-O-Sun -- probably New London

4 would be one and then the PET plants over in

5 the Virginia, eastern Tennessee area.

6 Q. The tri-city area?

7 A. The tri-city area.

8 Q. Was there any plant in particular that it was

9 your understanding of a problematic overlap?

10 A. No, none in particular. Just all of those.

11 Plus, I believe -- I'm not sure but I believe

12 Southern Belle went south into Tennessee and I

13 think they were in on the fringes of Nashville

14 and Suiza owned the plant in Nashville at that

15 time, as I recall, so you had some overlap

16 there.

17 Q. Country Delite?

18 A. Yeah, Country Delite.

19 Q. The box milk plant?

20 A. Yeah.

21 Q. When you sold your interest in the Suiza dairy

22 group and you received the divestiture plans

23 from Suiza Dean, did you receive a copy of the

24 Broughten consent decree?

25 A. I don't know.

1 discussions regarding this financing of  
2 Southern Belle?

3 A. I don't think I did.

4 Q. To your knowledge, did anyone else take any  
5 notes or were any other written records made?

6 A. Not that I recall. But I don't think this was  
7 ever approved.

8 Q. Why didn't NDH acquire Southern Belle?

9 A. This is my recollection of what happened, okay?

10 Q. Counsel nods head.)

11 A. About the time NDH had the deal with the  
12 principals of Southern Belle, the owners, the  
13 Suiza Dean merger was going through Justice.  
14 And during this period of NDH development, we  
15 were targeting for six plants that were going  
16 to be spun off and in the end, in order to get  
17 Justice approval, Dean Suiza had to spin off 11  
18 plants. Not six; 11. And two of those plants  
19 -- this is my recollection now -- were not a  
20 part of the original six, two of those were New  
21 London and U.C. Milk company. And so now you  
22 have a different landscape from a competitive  
23 point of view of NDH and Southern Belle in that  
24 now NDH owns New London, Flav-O-Rich, and owns  
25 this other plant in western Kentucky.



1 Q. U.C. Milk Goldenrod; right?

2 A. Yeah. So now we have Southern Belle in the  
3 middle of this, and my recollection was legal  
4 counsel was saying there is no way you are  
5 going to get it approved, Justice won't approve  
6 this much concentration, and so they decided  
7 not to do it.

8 Q. The Suiza Dean divestitures were decided upon  
9 in December --

10 A. Late December.

11 Q. -- middle to late December -- middle December,  
12 actually, prior to Christmas. My question to  
13 you is, what is your understanding as to why  
14 Tracy Noll would have reached a verbal  
15 agreement for NDH to acquire Southern Belle  
16 after learning of the final divestiture package  
17 in Suiza Dean?

18 A. Now, I don't know the timing. You are asking  
19 me for timing when did he know and --

20 Q. I'll represent to you the divestiture in Suiza  
21 Dean was completed at least a week before  
22 Christmas of 2001. What's your understanding  
23 as to why Tracy Noll would reach an agreement  
24 to purchase Southern Belle --

25 A. I don't know, maybe he hadn't got legal opinion

1 at that point. I don't know. These lawyers  
2 work awful slow.

3 Q. No comment.

4 A. Can I take five?

5 Q. Sure.

6 A. Are you about at a good breaking point?

7 Q. That's fine.

8 (Recess.)

9 Q. (BY MR. DONALDSON) We talked a little bit  
10 about why NDH didn't buy Southern Belle. Do  
11 you think DFA could have bought Southern Belle  
12 by itself?

13 A. I don't know. Financially, you mean? Did we  
14 have the wherewithal?

15 Q. No. The same reasons you talked about NDH?

16 A. I don't know.

17 Q. Have you given any thought to it?

18 A. Did we?

19 Q. Have you?

20 A. No.

21 Q. No?

22 A. No. We wouldn't think about it.

23 Q. When was the next time that DFA discussed with  
24 anyone potentially acquiring an interest in  
25 Southern Belle, are we up to Bob Allen now?

1 A. Yes.

2 Q. Okay. And what happened there? When was the

3 first contact made to Bob Allen?

4 A. It was by phone, I'm sure either I called him

5 or Jerry Bos called him, one of the two, to see

6 if he had an interest, and he did. And, as I

7 recall, he came in to Kansas City and visited

8 with us about it.

9 Q. When was that first call made?

10 A. I don't know, sometime after NDH couldn't do

11 the deal.

12 Q. Approximately January 10th; would that sound

13 right?

14 A. It sounds close.

15 Q. Okay. And do you recall whether it was you,

16 Mr. Bos or both of you on the phone with Mr.

17 Allen?

18 A. I don't recall. Normally, I would make the

19 first call and then he would follow up with

20 Jerry or some other people in Accounting or

21 whoever, but I do remember he came to Kansas

22 City.

23 Q. What was discussed on that first call with Mr.

24 Allen?

25 A. My recollection is that we asked him, Are you

CERTIFICATE

I, MARY K. MARTIN, a Certified Court Reporter, with offices at 1930 Commerce Tower, Kansas City, Missouri, do hereby certify that I was present at the proceedings as set forth in the caption sheet hereof; that I then and there took down in shorthand the proceedings had at that time, and the foregoing pages constitute a true and accurate transcript of the shorthand notes made at that place and time.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of July, 2002.

Mary K. Martin

Certified Court Reporter  
No. 0255